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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 6234
)
)
)
Arlen B. Cenac, Jr.)
Roger Beaudean)
Travis Breaux)
Ena Breaux)
Kurt Fakier)
Andrew Soudelier)
Renee Soudelier)
Cenac Towing Co., LLC, as)
successor-in-interest to Cenac)
Towing Co., Inc.)

GENERAL COUNSEL'S REPORT #2

I. ACTIONS RECOMMENDED: Substitute the names of respondents Arlen B. Cenac, Jr., Roger Beaudean, Travis Breaux, Ena Breaux, Kurt Fakier, Andrew Soudelier, and Renee Soudelier, as appropriate, in place of "Unknown Respondents" in the Commission's previous finding of reason to believe that Unknown Respondents violated 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(3), 441b, and 441f; find reason to believe that Arlen B. Cenac, Jr.'s violations of 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(3), 441b, and 441f were knowing and willful; find reason to believe that Cenac Towing Co., LLC, as the successor-in-interest to Cenac Towing Co., Inc.¹ ("Cenac Towing") knowingly and willfully violated 2 U.S.C. §§ 441b and 441f; and approve the attached Factual and Legal Analyses.

II. PROCEDURAL HISTORY

This report stems from a complaint alleging that the Friends of Mary Landrieu, Inc. ("Landrieu Committee") violated the Federal Election Campaign Act of 1971, as

¹ The available information indicates that Cenac Towing Co., Inc. merged into Cenac Towing Co., LLC in June 2008, after the events at issue in this matter.

MUR 6234
Arlen B. Cenac, Jr., *et al.*

1 amended, ("the Act") by disgorging \$25,300 in illegal contributions and paying that
2 amount to the United States Treasury instead of refunding and reporting them. See First
3 General Counsel's Report, dated April 29, 2010 ("FGCR").

4 The Landrieu Committee responded that it disgorged these contributions
5 because it suspected that the funds, which arrived at the same time in the form of six
6 sequentially numbered cashier's checks issued by Whitney National Bank ("Bank"),
7 may have come from a prohibited source or may have been made by a person other than
8 the listed remitter. One of the putative contributors told a Landrieu Committee staff
9 member, who was assessing the propriety of these contributions, that she had no
10 knowledge of making any contributions to the campaign.

11 Based on the allegations in the Complaint and the Landrieu Committee's
12 response, the Commission found reason to believe that Unknown Respondents may
13 have violated 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(3), 441b, and 441f and authorized an
14 investigation to determine whether the contributions were made in the names of others
15 and, if so, to identify the original source of the contributions.² *Id.*

16 As a result of our investigation, we identified Arlen B. Cenac, Jr. as the original
17 source of the subject contributions, C. Berwick Duval as the individual who forwarded
18 those contributions to the Landrieu Committee, and 11 individuals in whose names the
19 cashier's checks were bought. See Landrieu Committee Response, dated August 2,
20 2010; Subpoena Response from Whitney National Bank, dated December 21, 2010.
21 Witnesses provided us with new details relating to the solicitation of the subject

² The Commission also dismissed the allegations that the Landrieu Committee violated 11 C.F.R. § 103.3(b)(1) & (2) and the related reporting regulations by disgorging the subject contributions and remitting payment to the U.S. Treasury. See Certification, dated June 29, 2010.

MUR 6234

Arlen B. Cenac, Jr., *et al.*

1 contributions, the preparation of the six cashier's checks, and the transmission of those
2 checks to the Landrieu Committee. At this point, the investigation indicates that Cenac
3 engineered a scheme in which he used a personal check to make contributions totaling
4 \$25,300 to the Landrieu Committee in the names of others, and that six of the
5 individuals in whose names Cenac made these contributions may have known of, or
6 participated in, the scheme. In addition, we discovered information indicating that
7 about two months earlier, Cenac engineered a separate scheme to make \$15,000 in
8 corporate contributions in the names of others to Senator David Vitter's authorized
9 committee, David Vitter for U.S. Senate ("Vitter Committee") in violation of 2 U.S.C.
10 §§ 441b and 441f.

11 We previously circulated a General Counsel's Report recommending that the
12 Commission substitute the names of respondents Arlen B. Cenac, Jr., Roger Beaudean,
13 Travis Breaux, Ena Breaux, Kurt Fakier, Andrew Soudelier, and Renee Soudelier, as
14 appropriate, in place of "Unknown Respondents" in the Commission's previous finding
15 of reason to believe that Unknown Respondents violated 2 U.S.C. §§ 441a(a)(1)(A),
16 441a(a)(3), 441b, and 441f. See General Counsel's Report #2, dated April 20, 2011. At
17 the June 14 Executive Session, the Commission deferred making findings and instructed
18 this Office to notify these individuals and invite their responses.

19 Cenac submitted a response on November 8.³ Beaudean, Fakier, and Soudelier
20 did not file a response, although their counsel provided information to us during a

³ Counsel for Cenac initially requested an extension of time to respond, which we granted, and then later requested copies of background materials referenced in the notification letter. After discussions with counsel, this Office provided certain requested materials, and counsel responded.

MUR 6234

Arlen B. Cenac, Jr., *et al.*

1 telephone conversation.⁴ We did not receive responses from the Breauxes or the
 2 Soudeliers. The Commission also directed this Office to notify Duval, who filed a
 3 response. We have incorporated the information gathered to date into this report, which
 4 supersedes and replaces the General Counsel's Report #2, circulated on April 20.

5 **III. DISCUSSION**

6 **A. Contributions Made to the Landrieu and Vitter Committees**

7 **1. Contributions Made in the Names of Others to the Landrieu** 8 **Committee**

9
 10 The available information indicates that, at some point in 2007, the Landrieu
 11 Committee's State Finance Director met Duval, whose family members were
 12 contributors to the campaign, at a fundraising event in Houma, Louisiana. According to
 13 the State Finance Director, Duval agreed to raise funds for the campaign in the Spring
 14 of 2008. *See also* Duval Response. After failing to meet a fundraising deadline of
 15 March 30, and after an inquiry from the Landrieu Committee, Duval informed the State
 16 Finance Director that he would shortly forward the contributions to the Landrieu
 17 Committee. The State Finance Director stated that, a few days later, on May 14, the
 18 Landrieu Committee received a FedEx envelope containing six sequentially numbered
 19 cashier's checks. *See* Landrieu Committee Response, dated August 2, 2010. The
 20 available information indicates that Duval raised these funds from Cenac, who was a
 21 friend and client.⁵ *See* Duval Response. Cenac is the president and sole owner of

⁴ Counsel for Beaudean, Fakier, and Soudelier asked for an extension of time to respond and then later requested documents related to the notifications, which this Office provided, but failed to submit a written response. During a November 28 telephone call, counsel made an oral statement regarding his clients' activities. (Counsel also represents remitter James Hagen III, and discussed his actions as well.)

⁵ At the time of this solicitation, Cenac had already made a \$2,300 contribution to the Landrieu Committee.

12044321524

MUR 6234

Arlen B. Cenac, Jr., *et al.*

1 Cenac Towing, and he is the sole owner of numerous other related companies
2 headquartered in Houma, Louisiana. *See* Response of Arlen B. Cenac, Jr. at 1 ("Cenac
3 Response").

4 The available information indicates that, on April 24, 2008, Cenac arranged to
5 obtain the six subject cashier's checks by calling the assistant manager at the Bank's
6 Houma branch. According to the assistant manager, Cenac's secretary arrived at the
7 Bank shortly after Cenac's telephone call and gave the assistant manager written
8 instructions and a personal check from Cenac in the amount of \$25,300. *See* Subpoena
9 Response from Whitney National Bank, dated December 21, 2010. According to the
10 assistant manager, these instructions directed her to prepare six cashier's checks
11 (totaling \$25,300) made payable to Friends of Mary Landrieu, and listed the names and
12 addresses of the "remitters" and the specific amounts to appear on each check. The
13 listed "remitters" were: Mr. & Mrs. Roger Beaudean (\$4,600); Mr. & Mrs. Travis
14 Breaux (\$4,600); Mr. & Mrs. Kurt Fakier (\$4,600); Mr. James Hagen III (\$2,300);
15 Mr. & Mrs. Andrew Soudelier (\$4,600); and Mr. & Mrs. Melvin Spinella (\$4,600). *Id.*
16 The assistant manager stated that, on the same day, Cenac's secretary collected the six
17 cashier's checks and the written instructions. The available information indicates that
18 Cenac delivered the cashier's checks to Duval, who in turn forwarded them to the
19 Landrieu Committee. *See* Duval Response.

12044321525

MUR 6234

Arlen B. Cenac, Jr., *et al.*

1 a. Cenac

2 Cenac's response corroborates almost all of the material facts gathered thus far
 3 in the investigation, except he states that the instructions he gave his secretary were
 4 oral, not written. Cenac Response at 2. Cenac admits in his response that he used a
 5 personal check in the amount of \$25,300 to purchase the six cashier's checks from the
 6 Bank in order to make contributions to the Landrieu Committee in the names of the 11
 7 individuals listed above. See Cenac Response at 2. Cenac also acknowledges that
 8 making these contributions to the Landrieu Committee was "improper" and claims he
 9 was "unskilled in election law." *Id.* These admissions, as well as the other information
 10 outlined in this report, support substituting Cenac's name in place of "Unknown
 11 Respondent" in the Commission's previous finding of reason to believe. 2 U.S.C.
 12 §§ 441a(a)(1)(A), 441(a)(3) and 441f. See Subpoena Response from Whitney National
 13 Bank, dated December 21, 2010; Committee Responses, dated March 23 and August 2,
 14 2010, and Cenac Response.⁶

15 b. Remitters

16 Of the 11 individuals listed as "remitters" on the cashier's checks made out to
 17 the Landrieu Committee, six are employed as managers in one of several companies
 18 owned by or associated with Cenac: Cenac Towing; CENAC Offshore, LLC; CTCO
 19 Shipyard of Louisiana; Southern Fabrications, LLC; Bayou Black Electric Supply,
 20 LLC; and Louisiana Paint & Marine Supply, LLC. The remaining five individuals

⁶ Although Cenac used a personal check to buy the subject cashier's checks, the source of the funds used to underwrite this transaction could have come from one of Cenac's corporate accounts, thus possibly establishing 2 U.S.C. § 441b violations. We will ascertain the source of these funds during the course of the investigation. We note that Cenac used a corporate check to buy the cashier's checks given to the Vitter Committee. See Section III.A.2, below.

12044321526

MUR 6234
Arlen B. Cenac, Jr., et al.

1 listed as "remitters" are married to five of these managers. See Cenac Response at 2;
2 Landrieu Committee Response, dated August 2, 2010.

3 As part of the Landrieu Committee's routine contribution confirmation process,
4 it sent a letter to each couple and to Hagen requesting that they sign and return a
5 Contributor Information Form verifying that the funds used to make the contributions
6 were drawn on a personal or joint account. See Landrieu Committee Response, dated
7 August 2, 2010. Documents produced by the committee show that Beaudeman, Breaux,
8 Fakier, and Soudelier, as well as Ena Breaux and Renee Soudelier, each signed the
9 Landrieu Committee's form stating that the contribution attributed to him or her was a
10 "personal contribution" drawn on a personal/joint checking account containing personal
11 funds. *Id.* The forms list the numbers of the checks attributed to the named
12 contributors and show the same date of receipt, May 14, 2008. The available
13 information, however, demonstrates that these individuals did not make the
14 contributions attributed to them, and that the forms they signed and submitted to the
15 Landrieu Committee were false. See Subpoena Response from Whitney National Bank,
16 dated December 21, 2010; Landrieu Committee Responses, dated March 23 and August
17 2, 2010, Cenac Response at 2.

18 As outlined in the chart below, we have grouped the 11 "remitters" into two
19 categories: (1) six whose names should be substituted in place of "Unknown
20 Respondents" in this matter because they completed and signed the Landrieu
21 Committee's Contributor Information Form described above and, therefore, may have
22 known of or participated in Cenac's scheme; and (2) five whose names we are not

12044321527

MUR 6234

Arlen B. Cenac, Jr., et al.

- 1 recommending be substituted because there is no evidence, currently, that they knew of
- 2 or participated in the scheme.

	<u>NAME</u>	<u>STATUS</u>
	<u>GROUP ONE</u>	
1.	Roger Beaudéan (\$4,600) General Manager, CENAC Offshore, LLC	Signed form claiming contribution was made from personal funds.
2.	Travis Breaux (\$2,300) Manager, Southern Fabrications, LLC	Signed form claiming contribution was made from personal funds.
3.	Elna Breaux (\$2,300)	Signed form claiming contribution was made from personal funds.
4.	Kurt Fakier (\$4,600) Owner, Louisiana Paint & Marine Supply Co.	Signed form claiming contribution was made from personal funds. (In a voice mail message said he did not recall making a contribution.)
5.	Andrew Soudelier (\$2,300) Personnel Manager, Cenac Towing	Signed form claiming contribution was made from personal funds.
6.	Renee Soudelier (\$2,300)	Signed form claiming contribution was made from personal funds.
	<u>GROUP TWO</u>	
7.	Lynn A. Beaudéan	Spouse of Roger Beaudéan
8.	Cynthia R. Fakier	Spouse of Kurt Fakier
9.	James Hagen III (\$2,300) Manager CTCO Shipyard of Louisiana, LLC	Did not submit Committee form. Told this Office he had no idea about a contribution being made in his name.
10.	Melvin Spinella Operations Manager, Bayou Black Electric Supply, LLC	Told Committee and this Office he did not make a contribution.
11.	Elsie Spinella	Told Committee and this Office she did not make a contribution.

MUR 6234

Arlen B. Cenac, Jr., *et al.*

1 As the Commission directed, we notified the remitters in Group One regarding
2 the allegations in this matter and provided them with an opportunity to respond. The
3 Breauxs and Renee Soudelier did not respond to the notification. Counsel for
4 Beaudean, Fakier, and Soudelier did not respond in writing but told us during a
5 November 28, 2011, phone call that his clients do not deny that their signatures appear
6 on the Landrieu Committee's Contributor Information Forms, though they do not recall
7 how their signatures came to be on those forms. He did not identify the source of the
8 contributions. Counsel also stated that Roger Beaudean was asked to make a
9 contribution to the Landrieu Committee by a person whom counsel did not identify.
10 Counsel further stated that Beaudean did not attempt to make a contribution until he
11 received the blank Contributor Information Form from the campaign, which he filled
12 out and sent along with a check to an unnamed person at Cenac Towing. According to
13 counsel, Cenac Towing returned both his original check and his signed Contributor
14 Information Form, and Beaudean was told they were not needed.

15 The available information supports substituting in the place of Unknown
16 Respondents the names of Roger Beaudean, Travis Breaux, Ena Breaux, Kurt Fakier,
17 Andrew Soudelier, and Renee Soudelier. 2 U.S.C. § 441f. By signing the Landrieu
18 Committee's Contributor Information Forms, these individuals submitted false
19 verifications to the Landrieu Committee stating that the contributions attributed to them
20 were "personal contributions" drawn on a personal/joint checking account containing
21 personal funds. Despite these signed verifications, the available documents and
22 information demonstrates that Cenac made these contributions using his personal funds.
23 See Subpoena Response from Whitney National Bank, dated December 21, 2010;

12044321529

MUR 6234

Arlen B. Cenac, Jr., *et al.*

1 Committee Responses, dated March 23 and August 2, 2010; and Cenac Response. See
2 MUR 5891 (Noe) (Individual conduits whose names were substituted for "Unknown
3 Respondents" in previous reason to believe finding submitted donor cards and other
4 contributor forms attesting they were making contributions for themselves with their
5 personal money, when in fact they were using Noe's money).

6 By contrast, we are not recommending that the Commission substitute in place
7 of the Unknown Respondents the names of the remitters in Group Two - James Hagen
8 III, Lynn A. Beaudean, Cynthia B. Fakier, Melvin Spinella, and Elsie Spinella. At this
9 time, there is insufficient information to indicate that any of these individuals knew of
10 or participated in Cenac's scheme. While Hagen did not respond to the Landrieu
11 Committee's written request that he sign a form confirming or denying that the \$2,300
12 attributed to him was drawn on a personal account containing his personal funds, he
13 told this Office he had no idea that a contribution had been made in his name, which is
14 consistent with information provided by his counsel.

15 Further, while "Mr. and Mrs. Roger Beaudean" are identified as the "remitters"
16 on a single \$4,600 cashier's check purchased by Cenac, Roger Beaudean attributed the
17 entire amount to himself in the Contributor Information Form he signed. See Landrieu
18 Committee Response, dated August 2, 2010. And, presently, there is no indication that
19 Lynn Beaudean knew about the \$4,600 cashier's check or the contribution verification
20 form her husband signed. Similarly, while "Mr. and Mrs. Kurt Fakier" are identified as
21 the "remitters" on a single \$4,600 cashier's check Cenac bought, Kurt Fakier attributed
22 the entire contribution to himself on an undated Committee Contributor Information

12044321530

MUR 6234

Arlen B. Cenac, Jr., *et al.*

1 Form. *Id.* And, we have no information suggesting that Cynthia Fakier knew about the
2 \$4,600 cashier's check or the contribution verification form her husband signed.

3 Finally, the available information indicates that Melvin and Elsie Spinella did
4 not know about the \$4,600 cashier's check or the contributions attributed to them. The
5 Spinellas denied making the contribution when contacted by Landrieu Committee staff
6 in July 2008. Landrieu Committee Response, dated August 2, 2010. The Spinellas also
7 told this Office that they did not make the contributions at issue and do not know how
8 or why the \$4,600 contribution to the Landrieu Committee was made in their names.

9 We will return to the Commission with the appropriate recommendations if we
10 uncover evidence in the course of the investigation indicating that any of the Group
11 Two remitters was more involved in the scheme.

12 c. Duval

13 Duval, who solicited contributions to the Landrieu Committee from Cenac and
14 subsequently transmitted those contributions to the campaign, denies participating in
15 any plan or scheme to violate the Act in connection with the cashier's checks to the
16 Landrieu Committee or by serving as a "remitter" on one of the cashier's checks made
17 out to the Vitter Committee. See Response of C. Bervick Duval, dated August 8, 2011
18 ("Duval Response"), and subsection 2 below. According to Duval, his involvement in
19 the Landrieu Committee contributions was limited to soliciting them and directing his
20 secretary to arrange for the Landrieu campaign to pick up an envelope Cenac dropped
21 off at his office. Duval states that he did not discuss "any individuals or the manner for
22 campaign contributions" with Cenac, and Duval denies seeing the envelope containing
23 the cashier's checks or its contents. *Id.* We are not making any recommendations at

12044321531

MUR 6234

Arlen B. Cenac, Jr., *et al.*

1 this time with respect to Duval, as we have no evidence contradicting these statements,
 2 or his statement that he does not recall consenting to have his name listed as a
 3 "remitter" on a cashier's check made out to the Vitter campaign. *Id.*, and see next
 4 subsection. However, should we uncover evidence that Duval knew of or participated
 5 in Cenac's schemes to violate the Act, we will return to the Commission with the
 6 appropriate recommendations.

7 **2. Corporate Contributions Made in the Names of Others to the Vitter**
 8 **Committee**

9
 10 The investigation also uncovered evidence that in February 2008, Cenac used
 11 \$15,000 in corporate funds to buy six cashier's checks in the amount of \$2,500 -- each
 12 made out in this instance to David Vitter for U.S. Senate. Five of those checks listed
 13 names other than Cenac's as the "remitters."⁷ Subpoena Response from Whitney
 14 National Bank, dated September 21, 2011. We first learned of this information during
 15 an interview of the assistant manager at the Bank.

16 **a. Cenac and Cenac Towing**

17 In late 2007 or early 2008, Senator Vitter personally invited Cenac to his
 18 campaign's annual fundraising event in New Orleans. See Vitter Committee Response,
 19 dated September 28, 2011. On or about February 4, 2008, Cenac bought the six
 20 cashier's checks from the Bank using a \$15,000 check dated January 31, 2008, issued
 21 from an account held by Cenac Towing. See Subpoena Response from Whitney
 22 National Bank, dated September 21, 2011. According to the assistant manager at the
 23 Bank, Cenac used the same method to buy these cashier's checks as he used to buy the

⁷ The investigation also revealed that in June and September 2007, Cenac bought cashier's checks made out to local campaigns with names other than his listed as the "remitters."

12044321532

MUR 6234

Arlen B. Cenac, Jr., et al.

1 cashier's checks made out to the Landrieu Committee. Following a telephone call
2 between Cenac and the assistant manager, Cenac's secretary arrived at the Bank and
3 presented her with written instructions and the \$15,000 check. *See id.* Cenac directed
4 the assistant manager to prepare six cashier's checks made payable to the Vitter
5 Committee and listed the names and addresses of the "remitters" along with the specific
6 amounts to appear on each check. The following individuals were listed as "remitters":
7 Mr. & Mrs. Berwick Duval (\$2,500); Mr. & Mrs. Arlen Cenac, Sr. (\$2,500); Mr. &
8 Mrs. Kurt Fakier (\$2,500); Mr. & Mrs. Tim Solso (\$2,500); Mr. Arlen Cenac, Jr. &
9 Guest (\$2,500), and Mr. Chet Morrison & Guest (\$2,500). *See id.* The Bank prepared
10 the checks and, at Cenac's direction, returned the written instructions to his secretary
11 along with the cashier's checks.

12 As a result of this additional information, the Office of General Counsel sent a
13 request for information to the Vitter Committee as well as a notification of the
14 allegations to Cenac Towing.⁸ The Vitter Committee responded on September 28, and
15 Cenac and Cenac Towing jointly responded on November 8.

16 Cenac admits that he signed the Cenac Towing check used to buy the six
17 cashier's checks, although he states he does not remember authorizing or using
18 corporate funds to contribute to the Vitter Committee. Cenac reiterates his claim that he
19 was unskilled in election law and made these contributions in the mistaken belief that it
20 was not improper to make contributions in the names of others. *See* Cenac Response at
21 2.

⁸ This Office also included the Vitter Committee allegations in the previous notification letter to Cenac.

MUR 6234

Arlen B. Cenac, Jr., *et al.*

1 The Act prohibits a corporation from making a contribution in connection with a
 2 federal election and prohibits any person, including a corporation, from making
 3 contributions in the names of others. 2 U.S.C. §§ 441b and 441f.⁹ The Act further
 4 prohibits a corporate officer from consenting to a corporation making a federal
 5 contribution. 2 U.S.C. § 441b. It is undisputed that Cenac improperly authorized the
 6 use of Cenac Towing funds to make contributions in the names of others in violation of
 7 2 U.S.C. §§ 441b and 441f. Cenac Response. The Commission previously made a
 8 reason to believe finding as to an Unknown Respondent's violation of 2 U.S.C. § 441b,
 9 and this Office now recommends that Cenac be substituted for that Unknown
 10 Respondent. It is also undisputed that Cenac Towing used corporate funds to make
 11 these contributions in the names of others, and we recommend that the Commission find
 12 reason to believe that Cenac Towing Co., LLC, as the successor-in-interest to Cenac
 13 Towing, Inc. violated 2 U.S.C. §§ 441b and 441f.

14 b. Remitters

15 According to the Vitter Committee, the cashier's checks were given to campaign
 16 staff during the February 16 fundraising event. See Vitter Committee Response, dated
 17 September 28, 2011. At this point, we do not know who tendered the checks at the

⁹ Recently, a federal district court concluded that 2 U.S.C. § 441b(a)'s prohibition on corporate contributions was unconstitutional. See *U.S. v. Danielczyk*, 788 F.Supp.2d 472 (E.D.Va. May 26, 2011) (No. 1:11CR85 JCC), *Opinion Clarified on Denial of Reconsideration by U.S. v. Danielczyk*, — F.Supp.2d —, 2011 WL 2268063 (E.D.Va. June 7, 2011) (No. 1:11CR85 JCC). On June 16, 2011, the government appealed the district court's decision to the Fourth Circuit. The reasoning adopted by the district court has no basis in the Supreme Court's decision in *Citizens United v. FEC*, 130 S.Ct. 876 (2010). See Plaintiff-Appellant United States' Opening Brief in *U.S. v. Danielczyk*, No. 11-4667, at 26-29 (4th Cir. filed Oct. 19, 2011) (*Citizens United* did not undermine, much less overrule, longstanding precedent reviewing contribution limits more permissively than independent expenditures). See also *Preston v. Leake*, — F.3d —, 2011 WL 5320750 (4th Cir. Nov. 7, 2011) (No. 10-2294); *Green Party of Conn. v. Garfield*, 616 F.3d 189, 199 (2d Cir. 2010); *Mimeson Citizens Concerned for Life, Inc. v. Swanson*, 640 F.3d 304, 316-19 (8th Cir. May 16, 2011) (post-*Citizens United* cases upholding the constitutionality of state laws banning political contributions from, *inter alia*, lobbyists, state contractors, and corporations).

MUR 6234

Arlen B. Cenac, Jr., *et al.*

1 on-site registration for the event or whether Cenac or any of the "remitters" attended the
 2 fundraiser. As discussed above, Duval claims that he does not recall consenting to
 3 having his name listed as a "remitter" on the subject cashier's check, and he cannot
 4 locate a copy of any check he wrote to the Vitter Committee. *See Duval Response.*
 5 Therefore, we do not have sufficient information at this time to make recommendations
 6 as to any of the remitters to the Vitter Committee. We intend to notify the remitters
 7 shortly (other than Duval who has already filed a response) and will return to the
 8 Commission with recommendations at the appropriate time.

9 B. There is Reason to Believe that Cenac and Cenac Towing's
 10 Violations were Knowing and Willful
 11

12 Although the Commission's previous reason to believe finding relating to the
 13 Landrieu Committee contributions did not include reason to believe findings that the
 14 violations at issue were knowing and willful, we informed Cenac and Cenac Towing
 15 that knowing and willful findings were possible. *See Notification letters of June 28*
 16 *(Cenac) and October 26, 2011 (Cenac Towing).* The information we have obtained thus
 17 far indicates that there is reason to believe that these respondents' violations relating to
 18 the contributions made to both the Landrieu and Vitter Committees were knowing and
 19 willful.

20 The Act permits enhanced penalties for knowing and willful violations.
 21 2 U.S.C. §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires
 22 knowledge that one is violating the law. *FEC v. John A. Dramesi for Congress Comm.*,
 23 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be
 24 established "by proof that the defendant acted deliberately and with knowledge that the
 25 representation was false." *United States v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990).

12044321535

MUR 6234

Arlen B. Cenac, Jr., et al.

1 Taking steps to disguise the source of funds used in illegal activities is evidence of
2 "motivation to evade lawful obligations" and knowing and willful conduct. *Id.* at 213-
3 14 (citing *Ingram v. United States*, 360 U.S. 672, 679 (1959)). It is hornbook law that a
4 principal is liable for the acts of its agents committed within the scope of his or her
5 employment. RESTATEMENT (THIRD) OF AGENCY § 7.07; *U.S. v. Sun-Diamond*
6 *Growers of California*, 138 F.3d 961(D.C. Cir. 1998) (criminal convictions affirmed
7 against Sun-Diamond in connection with a corporate contribution reimbursement
8 scheme carried out by officer).

9 In support of the claim that his violations were not knowing and willful, Cenac
10 states that he was an unsophisticated contributor "unskilled in election law" and the
11 contributions to the Landrieu Committee were "mistakes" resulting from inexperience.
12 Cenac Response at 2. Cenac denies that his actions in buying the six cashier's checks at
13 issue reflect "a knowing and willful attempt to conceal the source of the funds" because
14 they did not involve the use of false names or records. *Id.* To support his position, the
15 response points to Cenac's lack of concern about either his personal check to the Bank
16 serving as a record of the transaction or his directions that the cashier's checks be
17 bought on the same day from the same bank. The response also cites the fact that Cenac
18 had his secretary send the cashier's checks together in a single packet as evidence that
19 he did not try to disguise the checks' relationship to each other. *Id.* Cenac similarly
20 denies that the violations related to the Vitter Committee were knowing and willful.
21 See Cenac Response at 3.

22 Cenac's response is not persuasive. The available information indicates there is
23 reason to believe that Cenac's violations were knowing and willful. Cenac took

12044321536

MUR 6234

Arlen B. Cenac, Jr., *et al.*

1 multiple deliberate steps to conceal that he was the source of the funds used to make
2 illegal contributions to the Landrieu Committee, including sending his secretary to the
3 Bank with written instructions -- which he requested the Bank employee return -- to buy
4 six cashier's checks in the names of 11 individuals and forwarding those checks to the
5 Landrieu Committee through a proxy without informing the campaign that he had raised
6 those funds.¹⁰ The Bank's assistant manager contradicts Cenac's claim that the
7 instructions were oral, and her statement that Cenac insisted that the Bank return the
8 instructions undercuts his claim that he was unconcerned about leaving evidence of the
9 transaction. Cenac acted in a similarly deceptive way regarding the Vitter Committee
10 contributions, and his actions as Cenac Towing's agent are properly attributed to the
11 corporation. As such, there is reason to believe that Cenac Towing's violations with
12 respect to the Vitter Committee were also knowing and willful.

13 Cenac's claims that he was an unsophisticated contributor "unskilled in election
14 law" and therefore the contributions to the two committees in the names of others were
15 mistakes resulting from inexperience are not credible, and they are inconsistent with
16 information gleaned from Commission records. The FEC disclosure database shows
17 that between 1987 and 2008, Cenac made no fewer than 67 contributions exceeding
18 \$71,000 to 26 federal political committees. All of these contributions, which were
19 made in Cenac's name and publicly reported, appear to have conformed to the Act's
20 amount and source limitations. Further, Cenac's use of the names of actual people he
21 employed and their spouses to make the contributions, rather than making up names,

¹⁰ According to the Bank's assistant manager, except for anonymous charitable donations, Bank policy requires that cashier's checks show the name of the customer buying the check as the remitter. She said that the Bank deviated from that policy because Cenac was a "good customer." In addition, cashier's checks issued by the Bank usually do not include the "remitter's" address.

12044321537

MUR 6234
Arlen B. Cenac, Jr., *et al.*

1 does not demonstrate a lack of willfulness. In fact, by using the real names of
2 employees and spouses, many of whom appear to have dissembled when they told the
3 Landrieu Committee that the contributions came from their own funds, Cenac appears
4 to have drawn others into the scheme.

5 Therefore, for the reasons outlined above, we recommend that the Commission
6 find reason to believe that Arlen B. Cenac Jr.'s violations of 2 U.S.C. §§ 441a(a)(1)(A),
7 441a(a)(3), 441b, and 441f, and Camille Towing's violations of 2 U.S.C. §§ 441b and
8 441f in this matter were knowing and willful.

9 **IV. INVESTIGATION**

10 To complete the investigation, we plan to circulate deposition subpoenas for
11 Cenac, his secretary, Duval, and selected remitters. Such testimony will help discover
12 the full extent of the violations in this matter, determine whether pursuit of the remitters
13 in the Landrieu Committee scenario is appropriate, and test Cenac's claim that his
14 violations were not knowing and willful. In addition, this Office has requested
15 additional information from the Vitter Committee to determine whether there is
16 sufficient information to make reason to believe recommendations as to the remitters in
17 the Vitter Committee fact pattern.

18 **V. RECOMMENDATIONS**

19 1. Substitute the names Arlen B. Cenac, Jr., Roger Beaudean, Travis Breaux,
20 Ena Breaux, Kurt Fakier, Andrew Soudelier, and Renee Soudelier in the place of
21 "Unknown Respondents" in the Commission's previous finding that there is reason to
22 believe that "Unknown Respondents" violated 2 U.S.C. § 441f.
23

24 2. Substitute the name Arlen B. Cenac, Jr. in the place of "Unknown
25 Respondents" in the Commission's previous finding that there is reason to believe that
26 "Unknown Respondents" violated 2 U.S.C §§ 441a(a)(1)(A), 441a(a)(3), 441b, and
27 441f.

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MUR 6234

Arlen B. Cenac, Jr., *et al.*

3. Find reason to believe that Arlen B. Cenac, Jr.'s violations of 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(3), 441b, and 441f were knowing and willful.

4. Find reason to believe that Cenac Towing Co., LLC, as the successor-in-interest to Cenac Towing, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

5. Approve the attached Factual and Legal Analyses.

6. Approve the appropriate letters.

Anthony Herman
General Counsel


12/7/11

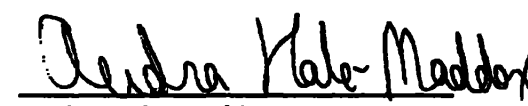
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MUR 6234
Arien B. Cenac, Jr., *et al.*

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